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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation in East Timor

Report of the Secretary-General

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Introduction

1. At its fifty-second session, the Chairman of the Commission on Human Rights made a statement on 23 April 1996, agreed by consensus, on the situation of human rights in East Timor (E/1996/23-E/CN.4/1996/177, para. 370). In that statement, the Commission, inter alia, welcomed the intention of the Government of Indonesia to continue to cooperate with the Commission on Human Rights and its mechanisms as well as its intention to invite a thematic rapporteur in 1997. It encouraged the Secretary-General to continue his good offices in order to achieve a just, comprehensive and internationally acceptable solution to the question of East Timor, and requested the Secretary-General to keep it informed on the situation of human rights in East Timor, which it would consider at its fifty-third session.

2. The present report has been prepared in response to the request contained in the above-mentioned statement.

3. Section I of the report contains an update on the good offices activities of the Secretary-General concerning the question of East Timor; section II contains a summarized description of action taken by various thematic special rapporteurs and working groups of the Commission. Annex I of the report contains information provided by the Government of Indonesia; annex II contains information provided by the Government of Portugal; annex III contains a summary of reports and other pertinent material provided by non-governmental sources.

4. The attention of the Commission on Human Rights is also drawn to the progress report of the Secretary-General on the question of East Timor (A/51/361) of 16 September 1996 in which he refers to the talks held between the Governments of Indonesia and Portugal in the framework of his continuing good offices.

I. UPDATE ON THE GOOD OFFICES ACTIVITIES OF THE SECRETARY-GENERAL CONCERNING THE QUESTION OF EAST TIMOR

5. In the past year, the Secretary-General has continued his good offices aimed at finding a just, comprehensive and internationally acceptable solution to the question of East Timor. He held an eighth round of discussions with Foreign Ministers Ali Alatas of Indonesia and Jaime Gama of Portugal in Geneva on 27 June 1996. This had been preceded by preparatory meetings in New York between the Permanent Representatives of the two Governments, led by the Secretary-General's Special Adviser, Mr. Ismat Kittani, which were also continued in Geneva in the days preceding the ministerial meeting.

6. The Foreign Ministers discussed in greater detail the substantive issues related to an eventual framework for a solution to the question of East Timor. At the conclusion of the meeting, the Foreign Ministers and the Secretary-General agreed that the discussions should continue at the level of the Permanent Representatives in New York through his Special Adviser and to hold a ninth round of talks on 21 December 1996 in New York. While the

contacts with the two sides continued in subsequent months, various matters not directly related to the issue obstructed the preparatory meetings required for the ministerial talks. Consequently, at the suggestion of the Secretary-General, the ninth round of ministerial talks was postponed to a later date.

7. The new Secretary-General, Mr. Kofi Annan, has been in touch with the two Governments and has expressed his desire to give a new impetus to his good offices. On 12 February, he announced the appointment of Mr. Jamsheed Marker (Pakistan) as his Personal Representative for East Timor. The Secretary-General will remain personally engaged in the efforts to find a solution to the problem while the Personal Representative will represent him in all aspects of his good offices function, including the talks between the two Governments and the consultations that the Secretary-General conducts with a cross-section of East Timorese society. Mr. Marker has begun consultations with the two Governments and intends shortly to follow up the Secretary-General's desire to give new momentum to these efforts.

8. With the agreement of the two Governments, the Secretary-General facilitated a second meeting of the All-inclusive Intra-East Timorese Dialogue (AIETD) from 19 to 22 March 1996 at Burg Schlaining, Austria. The meeting, which was held under the same terms of reference as the first one, held in June 1995, adopted the "Burg Schlaining Declaration - 1996", in which the participants, inter alia, expressed their desire to continue the Dialogue and reaffirmed "the need to implement the necessary measures in the field of human rights ... including the protection of women ...". The Foreign Ministers of Indonesia and Portugal considered the Declaration at their eighth round of talks in June 1996 and agreed to have further consultations on the proposals of the AIETD relating to the establishment of an East Timorese cultural centre in Dili and to the development of East Timor's human resources. They also "took note positively" of the Secretary-General's intention to facilitate another meeting of the AIETD, under the same terms of reference as the two first meetings.

II. ACTIONS TAKEN BY THEMATIC SPECIAL RAPPORTEURS AND WORKING GROUPS OF THE COMMISSION ON HUMAN RIGHTS CONCERNING EAST TIMOR

Special Rapporteur on the question of torture

9. Information regarding the action taken by the Special Rapporteur on torture with regard to East Timor is described in his report to the Commission (see E/CN.4/1997/7, paras. 91-111 and E/CN.4/1997/7/Add.1, paras. 209-241).

10. During 1996 the Special Rapporteur transmitted to the Government of Indonesia 12 cases of East Timorese reported to have been tortured and sent three urgent appeals on behalf of individuals or groups regarding whom fears were expressed that they might be subjected to torture. The Government replied to all these cases stating basically that the allegations or fears were unfounded.

11. The Special Rapporteur also included in his report information about his two-day visit to Lisbon, at the invitation by the Portuguese Government, in

order to meet a number of East Timorese residing in Portugal who had allegedly been tortured by Indonesian security forces prior to leaving their country. The Special Rapporteur indicated that he had decided to accept the invitation partly due to the fact that the Government of Indonesia had replied negatively (at least until spring 1997) to his request for a visit to Indonesia and East Timor, and therefore the visit to Portugal was an opportunity for him to obtain first-hand information that would help him to assess the situation regarding the use of torture against East Timorese. The report also included summaries of the general allegations received from non-governmental organizations, the oral accounts of torture he received from the alleged victims and the Government's replies to them, as well as its comments on the invitation by the Government of Portugal to the Special Rapporteur.

Working Group on Arbitrary Detention

12. The Working Group adopted decision No. 36/1996 regarding a number of East Timorese in detention. The text of the decision, which declares the detention of one person to be arbitrary, is included in the report of the Working Group (E/CN.4/1997/4/Add.1).

Working Group on Enforced or Involuntary Disappearances

13. Information regarding the action taken by the Working Group with regard to East Timor is included in its report to the Commission (E/CN.4/1997/34, paras. 190-195). According to the Working Group, between November 1995 and November 1996 it transmitted nine newly reported cases of disappearance to the Indonesian Government. Despite the government responses the cases remained unclarified. The Group also pointed out that it had in its files a total of 378 cases that had not yet been clarified.

Special Rapporteur on extrajudicial, summary or arbitrary executions

14. Information regarding the action taken by the Special Rapporteur with regard to East Timor is described in his report to the Commission (E/CN.4/1997/60/Add.1, paras. 231-247). The Special Rapporteur again indicated that he never received any reaction from the Government to the report he had prepared following his visit to East Timor in 1994.

Annex I

INFORMATION PROVIDED BY THE GOVERNMENT OF INDONESIA

1. On 22 July 1996 the Chargé d'affaires of the Permanent Mission of Indonesia to the United Nations addressed a letter to the Secretary-General that included information about human rights issues. The note was circulated to the General Assembly in document A/51/221. The following are some of the issues raised in it by the Government:

"(a) Portugal's accusation that Indonesia failed to honour the consensus statements made by the Chairman of the Commission on Human Rights since 1992 is wholly untrue. On the contrary, the Government of Indonesia has taken concrete steps to continue implementing the recommendations set forth in the consensus statements and that as far as the missing persons of the Dili incident are concerned, efforts to find them still being continued. The number of those unaccounted for is down to 54, after 2 more individuals reported their whereabouts. It is possible that some of those considered missing may be unwilling to come forward, have gone into hiding or even left Indonesia for Portugal;

"(b) Indonesia, as an active member of the Commission on Human Rights since 1991, is committed to working in close cooperation with all United Nations mechanisms. It is in this spirit that the Government of Indonesia extended an invitation to the United Nations High Commissioner for Human Rights, Mr. José Ayala-Lasso to visit Indonesia, including East Timor, from 2 to 7 December 1995. During that visit, the High Commissioner was granted free access to any place and to any one he desired to meet. It is important to note that at the end of his five-day visit, a Memorandum of Intention was signed by the Government of Indonesia and the United Nations High Commissioner for Human Rights which it was agreed would be followed by a Memorandum of Agreement. In this regard, the Memorandum seeks to enhance cooperation in the field of human rights between the Government of Indonesia, the Office of the High Commissioner and other United Nations mechanisms;

"(c) It is important to note that the branch office of the National Commission on Human Rights was inaugurated on 9 July 1996, in Dili, East Timor. This independent body will also serve as a source of reliable first-hand information to verify many false and uncorroborated allegations or incitements provoked by irresponsible elements;

"(d) (...) Allegations have been levelled that detention, torture and disappearances occurred from June 1995 until January 1996. This is certainly a convenient way of making allegations without substantiating them with proof or any concrete evidence. Far from any systematic strategy of silencing demonstrators, the local law enforcement have always upheld Indonesian criminal laws, while questioning, making arrests and detaining suspects. Therefore to state blatantly that some youths in East Timor were brought to trial and sentenced for engaging in lawful activities, is pure fabrication. In all such matters, after

investigation and finding no evidence of violation of criminal laws, those detained were released immediately and allowed to return to their families. As regards the 20 cases of torture referred by the Special Rapporteur on Torture of the Commission on Human Rights to the Government of Indonesia in 1995, these have been thoroughly investigated. Most of the names that were mentioned were either incomplete or matters were alleged to have taken place at times and places unknown to the Government of Indonesia. The results of the investigation have proved that none of the cases ever took place;

"(e) Portugal repeatedly argues that violations of human rights exist in East Timor by citing the 'reports' of Amnesty International. It is well known that the contents of such 'reports' are based upon preconceived notions and uncorroborated facts. It is for these reasons that the Government of Indonesia has never granted permission to organizations like Amnesty International, to visit the province as their predetermined views and negative approaches do not serve to advance the cause of the East Timorese people. The positive findings of other independent observers are as always conveniently ignored by Portugal;

"(f) In response to the contention that access is restricted to certain groups, this is a misrepresentation of the factual situation. The Government of Indonesia has continued to grant the International Committee of the Red Cross (ICRC) regular access to East Timorese prisoners, both in East Timor and in other places. During their visits, the ICRC delegates were also granted free access to people they wanted to meet in East Timor and other parts of Indonesia. The Government of Indonesia has noted with appreciation the continued assistance given by ICRC to improve further the living conditions of prisoners, including the sanitation in the prisons. The Government of Indonesia and ICRC also continued to work closely in clarifying inaccurate information regarding prisons;

"(g) East Timor continues to be visited by numerous foreign personalities, dignitaries and members of the diplomatic corps. Over the past six months, numerous personalities visited the province (...);

"(h) A series of incidents arose in the towns of Maliana, Uatolari and Dili in early September 1995. It is regrettable that the riots were caused by the irresponsible behaviour of a correctional officer of the Maliana prison which offended people of a different religion and so easily developed into a riot, with inter-religious and inter-ethnic nuance in several towns in East Timor. It is important to note that with the persuasive and wise handling of the incident by the local authorities, with the close cooperation of the local community leaders, including the Bishop of Dili, Mgr. Belo, the situation was quickly restored to normalcy. The Government has taken vigorous legal action against those found to be responsible for the incident. In this context, the above-mentioned warden is being brought to trial. However, it is regrettable that certain individuals will resort to anything to

create the impression that East Timor is not stable. By using religious and ethnic issues, they incite the local people to react in a negative manner. It is through these underhand methods that they attempt to focus the attention of the international community on East Timor."

2. In a note verbale dated 10 December 1996 the Permanent Mission of the Republic of Indonesia to the United Nations Office at Geneva transmitted a number of documents to the Secretary-General containing different statements about the 1996 Nobel Peace Prize. Excerpts from them are reproduced below.

"Statement by the East Timor House of Representatives dated 12 November 1996 addressed to the Nobel Peace Prize Selection Committee:

"We the members of the East Timor House of Representatives, on behalf of our constituents the people of East Timor, wish to express our grave disappointment that the prestigious Nobel Peace Prize has been used to reopen wounds that we have been trying to heal since our integration with Indonesia brought an end to a bloody civil war and a beginning to a process of development never witnessed during more than 450 years of Portuguese colonial rule.

"If we were convinced that your award was truly meant to honour a man of peace like Bishop Carlos Filipe Ximenes Belo and reward him for his commitment to the betterment of our society, our concern would be abated. Unfortunately, the sharing of this prize with Mr. Jose Ramos Horta, an individual who has been a party to the extermination of his political opponents, does a great disservice to all East Timorese who value the peace for which so many have been sacrificed."

"Letter of Abilio Jose Osorio Soares, the East Timor Governor, to the Chairman of the Nobel Peace Prize Committee

"First of all, I would like to express my thanks to the Nobel Peace Prize Committee that has paid much attention to the East Timorese. The attention of the Committee, however, has become problematic when the Committee announced Jose Ramos Horta as one of the Nobel Peace Prize winners along with Dili's Bishop Carlos Filipe Ximenes Belo. I realize that it is the Committee's jurisdiction to decide and determine who should receive the award. If the Committee sincerely wanted to send a message to Indonesia and us, the East Timorese people, to solve the problem in a peaceful way, that has not happened. The Committee's decision has reopened the problem that we felt we had left behind. (...)

"A controversial decision was made by the Committee when it decided Jose Ramos Horta was one of the Nobel Peace Prize winners, because he was a Fretilin spokesman ... In fact, in 1975 he was one of the Fretilin leaders who designed the civil war that caused many East Timorese people to lose their lives. (...)

"Meanwhile, on Bishop Belo I do not wish to comment because I do not know what criteria were used. I want to reiterate that the Bishop's Nobel should not be seen as either pro or anti integration but as part of his efforts to carry out peace. As an East Timorese with Indonesian nationality living among East Timorese people it is deserved."

"Statement and reactions by East Timor's leaders and figures:

"Dr. Arbilio Araujo, President of Fretilin and Leader of the People of East Timor Residing Abroad

"What has always been perceived by the international community that Horta represents Xanana Gusmao is far from the truth. The fact is that Ramos Horta has neither represented the objective nor the struggle of Xanana. If he truly represents Xanana's interest, why didn't they (the Nobel Committee) present the Peace Prize to Xanana himself?"

"F. X. Lopez Da Cruz, Indonesian Ambassador-At-Large with Special Tasks

"Bishop Belo is a prominent religious leader in East Timor, which places him in a position above all groups and classes. He does not take any sides. The teachings of Christianity, which are based on love, peace and harmony, continue to be the main principles of Bishop Belo. At the same time, he rejects any referendum for the people of East Timor, which he considers would bring back more bloodshed and civil war.

"The fact that the Prize was also given to Ramos Horta, in my opinion, will turn out to be very controversial. Horta is the mastermind of every single demonstration both in East Timor and abroad, which tends to use unnecessary force as well as sacrificing the future of East Timor's young generation. He only works for a minority group and does not possess strong roots with the people of East Timor. Furthermore, his parents are of Portuguese descent and his father was a district leader who oppressed the people of East Timor during the colonial era. It is only a mere coincidence that he was born in East Timor, however he holds a Portuguese passport."

"Clementino Dos Reis Amaral, member of the National Human Rights Commission

"The Nobel Committee's decision to award the Peace Prize to Jose Ramos Horta reflects its limited knowledge of East Timor. Ramos Horta has manipulated and ruined the younger generations of East Timor. Just imagine, the younger generations of East Timor have always been involved in every single demonstration which Horta has instigated and initiated. And what has he done following the arrests of those youths? So far, nothing."

"Press statement dated 22 October 1996 of the Department of Foreign Affairs of the Republic of Indonesia

"The Indonesian Government (...) has been astounded and surprised at the reason given for the award to Bishop Belo and to Ramos Horta. It has been announced that the award was for their 'sacrifices for the oppressed people of East Timor'. This is not true for in no way are the people of East Timor being oppressed. The Indonesian Government has always given the highest priority to the social and economic welfare of the people of East Timor. The record shows that it was only when East Timor integrated itself with Indonesia that the East Timorese began to enjoy universal suffrage, adequate political representation in decision-making centres of government, and real opportunities for socio-economic upliftment so that they could break away from the stagnation that had been the result of centuries of exploitation by the former colonial power. In fact, during the last meeting of the United Nations - facilitated All-Inclusive Intra-East Timorese Dialogue in Burg Schaining, Austria, on 22 March 1996, East Timorese representing all shades of opinion, including Jose Ramos Horta, stated that they were 'encouraged by the substantial role of the East Timorese in the administration and development of East Timor'."

3. The Permanent Mission of the Republic of Indonesia to the United Nations Office at Geneva sent four notes verbales dated 23 December 1996 to the Secretary-General providing the following information:

"A. East Timorese separatists killed four civilians in Manatuto, East Timor

"On 1 November 1996, East Timorese separatists injured one man and killed four others who were hunting in a forest in Manatuto, East Timor. Domingos de Jesus, the surviving man, told the villagers that the separatists attacked him and his friends with guns and machetes, took their food and left their victims in the forest. The law enforcement officers assisted by trackers and villagers attempted to track the separatists but their attempt was halted by bad weather. The four East Timorese who were shot dead and slashed with machetes by the separatists are Maumesak, Filomeno, Antonio Malai and Norberto.

"These types of brutal activities by FRETILIN have been effectively concealed from the international community by its founders, inter alia, Ramos Horta, and its supporters, notably Portugal. Furthermore, international organizations which concern themselves with human rights, such as Amnesty International, do not bother to comment on such killings, let alone condemn them, making their self-proclaimed intention of promoting and protecting human rights dubious.

"B. Visit of Brazilian parliamentarians to East Timor

"On 16 December 1996, a group of five Brazilian parliamentarians led by Senator Aracely de Paula visited East Timor province. Expedito Dias Ximenes, the spokesman of the provincial administration, stated that the members of the Brazilian Parliament were impressed with

the current positive situation in East Timor. One of the members stated to the press that he had been given an image of the situation in East Timor which is totally at variance with the reality.

"During the visit, they met with Mr. Abilio Soares, the Governor of East Timor, who briefed them in the Portuguese language about the East Timorese struggle since 1959 to achieve independence from Portugal which culminated in their genuine collective wishes to integrate with the Republic of Indonesia as clearly expressed in the Balibo Declaration of 1975. The explanation given by the Governor on the rapid and positive development that has been taking place in East Timor after its integration with Indonesia prompted the Brazilian parliamentarians to invite the Governor to visit Brazil so that he can present the true situation and full picture of East Timor to the people, the Parliament and the Government of Brazil.

"The Governor looked forward to having an open debate with Jose Ramos Horta during his visit to Brazil, thus allowing the people of Brazil as well as the international community to see for themselves the truth about East Timor and the fabrication that has been perpetrated by Horta.

"C. Number of East Timorese separatists decreasing

"The number of East Timorese separatists is decreasing with the arrest of three more members recently. Those arrested are Theofilo de Yesus, Manuel Amaral and Manuel. Theofilo, who happens to be the cook of Xanana Gusmao, was arrested following his attempts to ambush law enforcement officials. He was shot and his seven friends escaped and fled into the jungle. Manuel Amaral, a Dili resident who left for the jungle after his involvement in the violent demonstration of November 1991, was caught in Dili while he was trying to build a liaison.

"They testified that in the attempt to maintain their daily life, they often killed farmers or hunters to steal their belongings. They felt betrayed by the foreign elements who gave them empty promises to send munitions and unlimited funds. They also felt hesitant to surrender because of the misleading warning from their collaborators that they would be subject to torture and even murder once they surrendered.

"It is the consistent policy of the Government to maintain its general amnesty policy with the members of the separatist group. As has been demonstrated in the past, those who voluntarily surrendered were provided amnesty and also training so that they could become members of the civil society.

"Following their surrender, Mauhunu and Mauhudu were given amnesty and provided training and financial assistance. They are now living with their families in Dili and have become successful businessmen.

"D. Sixteen East Timorese patriots received medal of independence movement

"Sixteen East Timorese national independence fighters have received the Satyalancana Perintis Pergerakan Kemerdekaan or Medal of Independence Movement on 11 November 1996, for their struggle to fight against the Portuguese colonial power in 1959.

"Those 16 patriots are Domingos Soares, Jose Manuel Duarte, Evaristo da Costa, Armindo Amaral, Joaquim Pereira, Nicodemos dos Reis Amaral, Germano das Alves da Silva, Gerson Tom Pello, Jeremias Toan Pello, Alberto L. Ndun, the late Miquel Pinto, the late Mateus Sarmento Jordao de Araujo, the late Antonio da Costa Soares, the late Vital Ximenes, Jose Sarmento and Usman bin Mandully.

"History records that in 1959, the East Timorese people fought against Portuguese colonialism for their independence. Unfortunately, their independence movement was crushed and their 69 leaders were captured. One person was immediately executed and the rest were exiled to Mozambique and Angola. Meanwhile, 34 are still alive, living both inside and outside Indonesia.

"Following the fall of the dictatorship in Portugal, they have repeatedly appealed to the Portuguese Government to be returned to Indonesia but to no avail. Portugal has never made clear why it has repeatedly rejected their appeals. Their eventual return was facilitated by the ICRC. No news coverage or announcements about their return to Indonesia and their current well-being were ever made by and in Portugal.

4. The Permanent Mission also sent a note verbale on 6 January 1997 containing the following information:

"A. DECLARATION OF THE HEADS OF GOVERNMENT OF ASEAN ON THE QUESTION OF EAST TIMOR

"The Heads of Government of ASEAN at their meeting held in Jakarta, Indonesia, on 30 November 1996, issued a declaration relating to the question of East Timor, which reads as follows:

"'While recognizing the importance of ASEAN-EU relations which have developed over the past two decades, the ASEAN Heads of Government noted with increasing concern the efforts of one member country of the European Union to introduce extraneous issues such as the question of East Timor in the economic cooperation and interaction between ASEAN and the EU. They believed that the introduction of such extraneous issues would only lead to unwarranted aggravation in ASEAN-EU relations, while at the same time jeopardizing the tripartite process on East Timor presently taking place under the auspices of the United Nations Secretary-General. The Heads of Government reiterated their full support for the Indonesian position on East Timor and rejected the introduction of such extraneous issues into ASEAN-EU relations by a certain member of the EU'.

"B. FINAL COMMUNIQUE OF THE TWENTY-FOURTH SESSION OF THE ISLAMIC CONFERENCE OF FOREIGN MINISTERS

"The Islamic Conference of Foreign Ministers at its twenty-fourth session held in Jakarta on 13 December 1996, adopted the final communique relating to the question of East Timor, which reads as follows:

"'The Conference was briefed by Indonesia on the question of East Timor and the efforts to find a solution to the question. In this regard the Conference expressed its full support for Indonesia in the efforts to achieve a just, comprehensive and internationally acceptable solution'."

Annex II

INFORMATION PROVIDED BY THE PORTUGUESE GOVERNMENT

1. The Permanent Mission of Portugal to the United Nations Office at Geneva forwarded to the Secretary-General the following memorandum dated 7 February 1997 on the situation of human rights in East Timor:

"In East Timor, a wide range of human rights violations continued to take place during the last year, compounded by increasing incidents of political, religious and ethnic violence.

"The situation in the territory continues to be a cause of 'deep concern', as recognised by the Commission on Human Rights, of which Indonesia is a member, and thus subscriber to its Chairman's statement on East Timor, adopted by consensus on 19 April 1996.

"A. Human rights situation

"Throughout 1996, extrajudicial killings, disappearances, arbitrary detentions and torture were reported in East Timor by various reliable sources.

"1. Extrajudicial killings

"Politically related extrajudicial killings continue to occur in East Timor. The U.S. State Department's Report on Human Rights Practices for 1996 [states] that 'security forces in East Timor killed two unarmed civilians, in April, in separate unrelated incidents: on 25 April, near Baucau, an unarmed East Timorese civilian allegedly attempted to escape questioning by security personnel and was killed when one of them fired what was described as a warning shot. A military officer was convicted of accidentally killing the victim. On 28 April, in Dili, a member of the security forces fired on and killed an unarmed civilian during an altercation caused because the victim was allegedly burning an Indonesian flag. In early August, a student was killed after quarrelling with soldiers and seeking to escape arrest.'

"The first two killings are also mentioned in the Human Rights Watch World Report 1997, where victims are identified as Paulo dos Reis and André Sousa.

"According to Amnesty International, in its January 1997 report (AI Index: IOR 41/01/97), 'in September 1996, Jacinto de Jesus and Luis Ximenes were shot and killed by members of Kostrad (Army Strategic Reserve Command) as they were checked at a border crossing between Baucau and Viqueque, in East Timor'.

"2. Disappearances

"There were no new efforts by the Indonesian authorities to account for the missing and dead from the 12 November 1991 violent incident at the Santa Cruz cemetery in Dili. Of those still listed as missing in a report that the military had transmitted to Human Rights Watch/Asia, no additional cases were resolved during the year.

"The U.S. State Department reports that 'knowledgeable observers continued to believe that most of the missing are dead and that members of the armed forces know where their bodies are located'.

"The same source also reveals that 'a respectable human rights NGO reported to the United Nations the disappearance of a Timorese man from Same, on or around 13 May'.

"3. Torture and arbitrary arrests

"As stated by numerous sources, military units regularly detain East Timorese civilians for interrogation; often these civilians are mistreated for several days and then released.

"The U.S. State Department stresses that 'according to credible reports, in January, security forces seized nine East Timorese from their homes in the Zumlai 'Kecamatan' because they were suspected of cooperation with the guerrilla forces. One of the detainees alleged that they had been beaten and mistreated, including being placed in a small underground hole'. There were other reports that military and police units make frequent use of random torture against young men to maintain order in urban areas of East Timor.

"[As concerns] arbitrary detentions, the U.S. State Department reports that 'in areas where active guerrilla movements exist, such as East Timor..., there are instances of people being detained without warrants, charges or court proceedings.... Numerous individuals were seized from their homes in Dili and arbitrarily detained in February; there were similar reports of persons being arbitrarily detained in Baucau in June and November, and in Viqueque in December'.

"Senator Claiborne Pell, in the report that he presented to the Senate Foreign Relations Committee after his visit to Indonesia and East Timor in May 1996, also refers to the Baucau incident, where roughly 80 people were arrested after street protests against the desecration of a picture or statue of the Virgin Mary by Muslim Indonesians. The clashes reportedly caused the death of two people and wounding of an undetermined number of others (one of them was identified as Martinho Lopes). The situation in Baucau remained tense for several days while detentions and house-to-house searches were in progress throughout the city with people [going] missing or being submitted to harsh interrogation methods.

"4. Political prisoners

"Amnesty International counts at least 57 prisoners of conscience in East Timor, serving terms including life imprisonment for their peaceful opposition to Indonesian rule. These numbers include nine people convicted in relation to the Dili incident of 1991, and 21 sentenced during 1996, charged with using violence. Amnesty characterizes their trials as 'unfair', since the prisoners did not have access to legal representation nor to information about the schedule of the trials.

"The U.S. State Department reports that several hundred people are serving sentences for subversion in Indonesia, including many East Timorese, among which the East Timorese resistance leader Xanana Gusmão, imprisoned at Cipinang. During the eighth round of UN-sponsored talks, Indonesia refused to discuss both the proposal of the Portuguese Foreign Minister to visit Jakarta and to talk to Xanana Gusmão, and the proposal which the Portuguese Prime Minister put forward to President Suharto, during the ASEAN Summit meeting in Bangkok, according to which Portugal would agree to the opening of interest sections in Lisbon and Djakarta, provided that the Indonesian Government would agree to release Xanana Gusmão and other East Timorese political prisoners and ensure full respect for human rights in East Timor under UN supervision.

"In his speech at the Nobel Peace Prize award ceremony on 10 December and in an article published the same day by the New York Times, Bishop Belo declared 'after all these years of suffering, people in East Timor want to see real change. A modest first step would be the release of East Timorese political prisoners, a step that could renew hopes for peace and help the next round of United Nations-sponsored talks'.

"5. Excessive military presence

"Indonesia's military and security presence in East Timor, in spite of all promises and announcements, remains largely out of proportion with the alleged very low level of guerrilla warfare being waged against the Indonesian forces of occupation (the Indonesian military commander claims that the East Timorese guerrilla is comprised of only 188 fighters armed with 88 weapons). This increasing presence of the military force strongly contributed to the tension prevailing in the territory. In fact, many human rights violations seem also to be the result of unprofessional behaviour shown by troops in East Timor.

"According to U.S. State Department sources, 'the Indonesian Government continued to maintain an excessive military presence in East Timor'.

"As referred by Senator Pell in his report, there is a massive concentration of military personnel in East Timor, amounting to 15,403 troops. 'The vast majority of the troops are not East Timorese', says Senator Pell, who adds 'the presence of this armed and uniformed

non-Timorese force causes immense friction and conflict, leading the people of East Timor to feel that they are subjugated by a foreign army of occupation'.

"6. Infant mortality

"It is worth recalling, when referring to the situation prevailing in the territory as a whole, that the 1996 World Population Report released by the United Nations Population Fund shows that East Timor has the worst infant mortality rate among the world's 30 least developed countries and territories, at 135 deaths per 1,000 births. East Timor has also the lowest life expectancy among those same countries listed in the 1996 World Population Report (48.4 years for women and 46.7 for men).

"7. Massive Indonesian migration to East Timor

"Although in recent years Indonesia has significantly reduced its transmigration program, transmigrants and migrants outside the government program have received indirect government support in the form of developmental assistance and contracts with the Indonesian armed forces or local government officials stationed in East Timor. According to the U.S. State Department's Report on Human Rights Practices for 1996, 'in the last several years, informal predominantly Muslim migration to the province has sparked socio-economic tension in urban areas, proving an even greater concern than the formally sponsored transmigration program'.

"8. Asylum bids at western embassies

"Since January 1996, 69 youths sought political asylum in several western embassies in Djakarta. Asked by REUTERS to comment on the high number of East Timorese who have sought refuge in foreign embassies, Mr. Armindo Maia, acting rector of the Dili University said: 'The situation here in East Timor is one of terror, tension and persecution... I am not surprised these youngsters choose to go to foreign embassies, as people in their position are generally in a hopeless situation'.

"B. Indonesia's failure to comply with the recommendations made by the Commission on Human Rights and its mechanisms

"The Indonesian Government has continuously failed to act upon the recommendations made by the United Nations Commission on Human Rights. In 1996, the Commission noted with satisfaction the understanding reached between the Indonesian authorities and the High Commissioner for Human Rights concerning the upgrading of the current Memorandum of Intent on the technical cooperation in the field of human rights to a Memorandum of Understanding. In this context, it was also provisionally agreed to look into the possibility of the High Commissioner assigning a program officer within the office of the UNDP in Djakarta, who would also have regular access to East Timor. No further steps have since been taken by the Indonesian authorities to implement this provision.

"Amnesty International has produced a set of recommendations which should be met in order to achieve an effective human rights monitoring by the program officer, including 'full and unimpeded access to all areas of Indonesia and East Timor'.

"The 1996 consensus statement noted with satisfaction the greater access granted by the Indonesian authorities to international media and humanitarian organizations. While recognizing that some progress has been made in this matter, it is regarded as being clearly insufficient. In fact, access remains severely restricted and independent monitoring of the human rights situation is therefore extremely problematic. International media have been barred from the territory, with only a few exceptions since the beginning of 1996, including a permission for journalists to accompany a diplomatic delegation in April, to cover President Suharto's visit in October and to attend a press conference by Bishop Belo in November. Credible international human rights organizations such as Amnesty International or Human Rights Watch/Asia have still not been allowed access to the territory.

"During its fifty-second session, the Commission on Human Rights welcomed the intention of the Government of Indonesia to continue to cooperate with the Commission and its mechanisms. It should however be recalled that Indonesia did not accept the visit of a thematic rapporteur in 1996 and, contrary to the consensus statement adopted by the Commission on Human Rights in 1995, responded negatively to the requests for a visit made by the Special Rapporteur on torture and by the Working Group on Arbitrary Detention.

"The Government of Indonesia has also failed to implement the recommendations made by these thematic mechanisms - exception made to the establishment of a national commission on human rights (KOMNAS). This commission opened an office in Dili in June 1996. Although this was generally regarded as a positive development, many observers are doubtful of the office's effectiveness because of its location next to the local military headquarters. The U.S. State Department reports that, 'as of the year's end, the office had limited itself to dealing with non-political cases and therefore had made little impact with regard to the more serious human rights problems in East Timor'.

"According to the report of the High Commissioner for Human Rights on his visit to Indonesia and East Timor (3-7 December 1995), the Indonesian authorities are unwilling to accept the findings of the thematic mechanisms which they consider to be 'unbalanced and lacking in objectivity'.

"In his report to the last session of the Commission, the Special Rapporteur on extrajudicial, summary and arbitrary executions regretted that 'no reaction had been received from the Government with regard to the recommendations made upon his visit to Indonesia and East Timor in 1994'.

"As pointed out before, no action was taken in order to bring about an early release of East Timorese imprisoned for their opposition to Indonesian rule, sentenced after unfair trials.

"In the last years, East Timor has been the object of deliberations by the Commission on Human Rights. In 1993, the Commission adopted resolution 1993-97, which called upon the Indonesian Government to take specific steps in order to improve the human rights situation in East Timor. Since 1994, the Commission has adopted consensus statements recommending measures that would improve the situation prevailing in East Timor. Although it could be said that recommendations contained in these statements have been increasingly less demanding, Indonesia has systematically failed to honour its commitments in a way that undermines the credibility of the Commission on Human Rights itself."

2. In addition to the above, the Permanent Mission of Portugal to the United Nations Office at Geneva sent to the Secretary-General the following materials:

(a) A communiqué from the Ministry for Foreign Affairs on the occasion of the fifth anniversary of the Santa Cruz massacre stating that neither the circumstances surrounding the events nor the number and identity of the persons dead or disappeared have been clarified yet;

(b) A communiqué dated 11 October 1996 from the Ministry for Foreign Affairs expressing satisfaction at the award of the Nobel Peace Prize to Monsignor Ximenes Belo and Mr. José Ramos Horta;

(c) A resolution on the occupation of East Timor by Indonesia adopted by the Joint Assembly of the Asian, Caribbean and Pacific countries and the European Union on 26 September 1996 in which the ACP-EU Assembly, inter alia, condemned once again the Indonesian military repression of the people of East Timor, called for the immediate release of all political prisoners, including Mr. Xanana Gusmao, and reaffirmed its support for the action taken under the aegis of the United Nations to resolve the situation in respect of human rights and the right to self-determination;

(d) A resolution on the situation in East Timor and the violation of human rights in Indonesia adopted by the European Parliament on 20 June 1996 in which the Parliament, inter alia, deplored the provocative acts perpetrated against freedom of religion, called for the immediate release of all political prisoners, including Xanana Gusmao, and reaffirmed its support for the United Nations-sponsored negotiations under way aimed at resolving the problems on the basis of respect for human rights and the right to self-determination;

(e) The common position of 25 June 1996 defined by the Council of the European Union concerning East Timor in which the EU called upon the Indonesian Government to adopt effective measures leading to a significant improvement in the human rights situation in East Timor, in particular by implementing fully the relevant decisions adopted in that connection by the United Nations Commission on Human Rights, and supported all appropriate action with the objective of generally strengthening respect for human rights in East Timor and substantially improving the situation of its people by means of the resources available to the European Union and aid for action by non-governmental organizations.

Annex III

MATERIAL PROVIDED BY NON-GOVERNMENTAL SOURCES

1. In its World Report 1997 published in December 1996, Human Rights Watch referred to two separate incidents involving extrajudicial executions which allegedly occurred in East Timor in 1996. It also indicated that ethnic and religious violence had increased, some of it apparently deliberately provoked. Thus, in June, riots broke out in the town of Baucau after an Indonesian guard at a mosque in Baguia posted a picture of the Virgin Mary with a derogatory caption. The incident led to a protest march. Security forces were called in to contain the demonstration and, upon their arrival, violence broke out. Over 100 people were allegedly detained for their involvement in the demonstration. The report also referred to the opening, in July 1996, of an office of the National Human Rights Commission (KOMNAS) in Dili. It stated that its effectiveness was compromised by the fact that it was located directly across the street from the district military command and was headed by a former prosecutor from the island of Flores who did not speak the local language.

2. A non-governmental organization called East Timor Human Rights Centre based in Australia transmitted over the year alleged cases of disappearance, torture, arbitrary detention and extrajuducial executions, some of which were processed by the different thematic mechanisms of the Commission. They included information about 38 persons alleged to have been arbitrarily arrested between February and July 1996 three persons reportedly killed by soldiers or Special Forces Command in the district of Viqueque and the alleged disappearance of 10 persons in November 1996 following military operations also in the district of Viqueque.

3. The Secretary-General also received materials from the Commission for the Rights of the Maubere People and the National Council of Maubere Resistance, which included lists of persons allegedly detained, as well as the monthly bulletins called "Tapol-The Indonesian Human Rights Campaign". The Bishop's Conference of England and Wales sent a copy of a resolution adopted in November 1996 in which it welcomed the award of the Nobel Peace Prize to Bishop Belo and expressed concern about ongoing human rights violations and increasing interreligious tensions in East Timor, as well as about the lack of real progress in the tripartite talks and in the All-inclusive Intra-East Timorese Dialogue under United Nations auspices. They also urged, inter alia, that the United Nations press for the establishment of an effective United Nations human rights presence in East Timor.

4. In addition to numerous appeals on individual cases, Amnesty International issued in 1996 and at the beginning of 1997 several reports containing information about the human rights situation in East Timor, including the following:

(a) "East Timor: The September and October 1995 riots: Arbitrary detention and torture" (January 1996). This report referred to disturbances which allegedly took place resulting in damage to property and injuries sustained by rioters and police. At least 300 people were said to have been arbitrarily detained in the wave of arrests which followed the riots. Despite

the authorities' denial that any of those arrested were tortured or ill-treated, Amnesty International said that it had received reports and testimony indicating that members of the security forces did torture and beat the detainees;

(b) "1997 UN Commission on Human Rights - 50 years old" (January 1997). In that document, Amnesty International called on the Commission to act in particular country situations, including Indonesia and East Timor. It alleged that access to East Timor remained severely restricted, making independent monitoring of the human rights situation extremely problematic. International media had been barred from the territory, with only a few exceptions, since the beginning of 1996 and access continued to be denied to some human rights organizations, including Amnesty International. It was alleged that the Government had taken no further action to identify those killed during, or account for those missing after the Dili massacre of 1991. At least 57 prisoners of conscience, serving terms including life imprisonment for their peaceful opposition to Indonesian rule, and other political prisoners remained in prison in East Timor. Those sentenced during 1996 included 21 persons charged with using violence. All were believed to have been sentenced to prison terms ranging from eight months to four years and six months after unfair trials at which they did not have access to legal representation.